

D/F

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

SHA-QUAY GAINES,

Plaintiff,

-against-

CITY OF NEW YORK, DETECTIVE THOMAS RICE,  
POLICE OFFICER JULIO MICHELI AND POLICE  
OFFICERS JOHN DOES 1-5 (the names John Does being  
fictitious as their true names are presently unknown),

Defendants.

STIPULATION AND  
ORDER OF  
SETTLEMENT AND  
DISCONTINUANCE

16-CV-6286 (NGG) (ST)

WHEREAS Plaintiff Sha-Quay Gaines commenced this action by filing a Complaint and Jury Demand on or about November 11, 2016 against Defendants City of New York, Detective Thomas Rice, Police Officer Julio Micheli, and "Police Officers John Does 1-5," alleging violations of his rights under the Fourth, Fifth, and Fourteenth Amendments to the United States Constitution, secured by 42 U.S.C. § 1983, in connection with two separate arrests, one on August 2, 2015 and another on November 24, 2015; and seeking compensatory damages, punitive damages, and attorney's fees and costs;

WHEREAS on or about March 7, 2017, Detective Thomas Rice filed cross-claims against Defendant City of New York;

WHEREAS by Stipulation and Order dated and ordered by the Court on March 8, 2017, Plaintiff and Defendant City of New York stipulated and agreed that all claims that were or could have been asserted against the City of New York in this action are dismissed and discontinued, with prejudice and without costs or attorney's fees;

WHEREAS Defendants City of New York, Detective Thomas Rice, and Police Officer Julio Micheli have denied any and all liability arising out of Plaintiff's allegations;

WHEREAS Defendant City of New York has denied any and all liability arising out of Defendant Detective Thomas Rice's cross-claims;

WHEREAS the parties have reached a settlement agreement and now desire to resolve the remaining issues raised in this litigation, without further proceedings and without admitting any fault or liability; and

WHEREAS Plaintiff has authorized his counsel to settle this matter on the terms set forth below;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and among the undersigned, as follows:

1. The above-referenced action is hereby dismissed against all Defendants, with prejudice and without costs, expenses, or attorney's fees except as specified in paragraphs "2" and "3" below.

2. Defendant City of New York hereby agrees to pay Plaintiff Sha-Quay Gaines the sum of twelve thousand and five hundred dollars (\$12,500.00) in full satisfaction of all claims, including any claims for costs, expenses, and attorney's fees. In consideration for the payment of this sum, Plaintiff agrees to dismiss and discontinue, with prejudice, all of the claims that were or could have been asserted in this action, and to release Defendants Detective Thomas Rice, Police Officer Julio Micheli, and the City of New York; their heirs, successors, or assigns; and all past and present officials, employees, representatives, and agents of the City of New York or any agency thereof, including the "John Doe" defendants that Plaintiff intended to name in this action, or any entity represented by the Office of the Corporation Counsel, from any and all liability, claims, or rights of action that Plaintiff raised or could have raised in this action based upon or related in any way to the events described in the Complaint, including but not limited to

the alleged violation of Plaintiff's rights in connection with the alleged arrests on August 2, 2015 and November 24, 2015, and including all claims for costs, expenses, and attorney's fees.

3. Defendant Detective Thomas Rice agrees to pay Plaintiff Sha-Quay Gaines the sum of five hundred dollars (\$500.00) in full satisfaction of all claims, including any claims for costs, expenses, and attorney's fees. In consideration for the payment of this sum, Plaintiff agrees to dismiss and discontinue, with prejudice, all of the claims that were or could have been asserted in this action, and to release Defendant Detective Thomas Rice and his heirs, successors, or assigns, from any and all liability, claims, or rights of action that Plaintiff raised or could have raised in this action based upon or related in any way to the events described in the Complaint, including but not limited to the alleged violation of Plaintiff's rights in connection with the alleged arrests on August 2, 2015 and November 24, 2015, and including all claims for costs, expenses, and attorney's fees.

4. In consideration for the City of New York's contribution to this settlement, Defendant Detective Thomas Rice agrees to dismiss and discontinue, with prejudice, any and all of his cross-claims against Defendant City of New York that were or could have been asserted in this action, and to release the City of New York; its heirs, successors, or assigns; and all past and present officials, employees, representatives, and agents of the City of New York or any agency thereof, from any and all liability, cross- or counter-claims, or rights of action that Detective Thomas Rice raised or could have raised in this action based upon or related in any way to the events described in the Complaint, including all claims for costs, expenses, and attorney's fees.

5. Plaintiff shall be responsible for the payment of any federal, state, and/or local taxes on the payment specified in paragraphs "2" and "3" above.

6. Plaintiff shall execute and deliver to counsel for the City of New York all documents necessary to effect this settlement, including, without limitation, a Release based on the terms of paragraph "2" above, an Affidavit Concerning Liens, and a Release from Plaintiff's counsel. Plaintiff shall also execute and deliver to counsel for the City of New York and for Detective Thomas Rice a Release based on the terms of paragraph "3" above and a Release from Plaintiff's counsel.

7. Nothing contained herein shall be deemed to be an admission by the Defendants that they have in any manner or way violated Plaintiff's rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, or the City of New York or any other rules, regulations, or bylaws of any department or subdivision of the City of New York. This Stipulation and Order shall not be admissible in, nor is it related to, any other litigation, settlement negotiations, or administrative proceeding, except to enforce the terms of this agreement.

8. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York or any agency thereof.

9. This Stipulation and Order of Settlement and Discontinuance contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject matter of the instant proceeding shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

10. The parties further agree that this Stipulation and Order may be executed in counterparts, and that a facsimile signature shall be deemed valid for all purposes.

Dated: New York, New York  
July 6, 2017

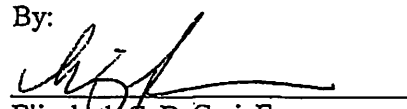
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Corporation Counsel of the City of New York  
*Attorney for the Defendants City of New York  
and Police Officer Julio Micheli*

By:

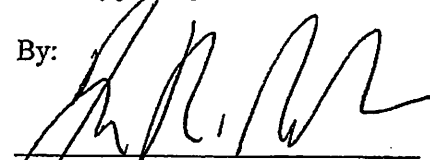
  
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SO ORDERED:

s/Nicholas G. Garaufis

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HONORABLE NICHOLAS G. GARAUFIS  
UNITED STATES DISTRICT JUDGE

Dated: Brooklyn, New York  
July 17, 2017